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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Austria,* Belgium, Bulgaria,* Croatia, Cyprus,* Czechia,* Denmark,* Estonia,* Finland,* France,* Germany, Greece,* Hungary, Ireland,* Italy,* Latvia, Lithuania,* Luxembourg,* Malta,* Netherlands, Poland,* Portugal, Romania,* Slovakia,* Slovenia, Spain,* Sweden,* Switzerland, United Kingdom of Great Britain and Northern Ireland: draft resolution

35/... Fight against impunity and need for accountability in the Kasais, Democratic Republic of the Congo

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming that all States have a responsibility to promote and protect the human rights and fundamental freedoms enshrined the Universal Declaration of Human Rights and other relevant instruments to which they are parties, including the International Covenants on Human Rights, and to fulfil their obligations under those treaties and agreements,

Recalling General Assembly resolution 60/251 of 15 March 2006,

Recalling also Human Rights Council resolution 33/29 of 30 September 2016 and its previous resolutions on the situation of human rights and technical assistance in the Democratic Republic of the Congo,

Recognizing the important role of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo and the United Nations Joint Human Rights Office in the Democratic Republic of the Congo in documenting human rights violations and in improving the situation of human rights in the country,

Gravely concerned by the recent reports of a unprecedented wave of violence, serious and gross human rights violations and abuses, and abuses and violations of

* State not a member of the Human Rights Council.

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international humanitarian law in the Kasais perpetrated by all, including those involving recruitment and use of child soldiers, sexual and gender-based violence, destruction of houses, schools, places of worship and State infrastructure by local militias, the alarming number of extrajudicial killings of civilians, women and children, perpetrated by members of the State security forces, which may constitute war crimes, as well as more than 40 mass graves discovered to date,

Strongly condemning the killing of two members of the expert group established pursuant to Security Council resolution 1533 (2003), Ms. Zaida Catalán and Mr. Michael Sharp, who were killed in Central Kasai while discharging their mandate,

Deeply alarmed by the humanitarian consequences of the violence affecting civilian populations in the Kasais, which have led to more than 1.27 million internally displaced inside the country and at least 30 0000 seeking refuge in neighbouring countries,

Expressing deep concern at reports of restrictions on the freedoms of peaceful assembly, opinion and expression and violations of the right to liberty and security of person, and threats against and intimidation of members of political parties, civil society representatives and journalists, and of arbitrary detention and the interference of the executive in the functioning of justice,

Stressing that the failure to organize the presidential, legislative and provincial elections within the constitutional deadlines has led to a deep political, security and socioeconomic crisis with serious repercussions with respect to the protection and the enjoyment of human rights in the Democratic Republic of the Congo,

Underlining the urgency of a swift and inclusive implementation of the 31 December 2016 agreement, in good faith and in all its components, including the implementation of all the easing measures, to organize peaceful, credible, inclusive and timely elections, no later than December 2017, leading to a peaceful transfer of power, in accordance with the Constitution and Security Council resolution 2348 (2017),

Taking note of the Security Council statements to the press on the situation in the Democratic Republic of the Congo of 25 February and 4 May 2017,

Taking note also of the press release by the United Nations High Commissioner for Human Rights on 9 June 2017, in which he stated that the scale and the nature of these human rights violations and abuses, and the consistently inadequate responses of the domestic authorities, require an international investigation to complement national efforts,

Stressing its commitment to the fight against impunity with a view to ensuring the non-recurrence of human rights violations and abuses,

1. *Condemns in the strongest terms* all the violence, incitement to hatred and ethnic violence, human rights violations and abuses as well as violations of international humanitarian law witnessed in the Democratic Republic of the Congo, in particular those carried out in the Kasai region since August 2016, including ethnically motivated violence, violence and abuses against women and children, recruitment and unlawful use of child soldiers, assassinations, extrajudicial killings, enforced disappearances, rapes and other forms of sexual and gender-based violence, cases of mistreatment or torture and other cruel, inhuman or degrading treatment or punishment;

2. *Urges* the Government and all the relevant institutions of the Democratic Republic of the Congo to take all the necessary measures to prevent all violations of international humanitarian law and all the human rights violations and abuses in the Democratic Republic of the Congo, in particular when they constitute war crimes or crimes against humanity, and to hold accountable all those responsible, regardless of their political affiliation, are brought to justice;

3. *Emphasizes* the individual responsibility of all stakeholders, including State officials, to act in strict compliance with the rule of law and human rights;

4. *Urges* the Government of the Democratic Republic of the Congo to respect, protect and guarantee all human rights and fundamental freedoms for all, in accordance with the State's international obligations, and to respect the rule of law;

5. *Recalls* that the Government of the Democratic Republic of the Congo bears the primary responsibility to protect all civilians within its territory, and urges the Government to exercise maximum restraint and proportionate lawful use of force in its efforts to restore order, in accordance with international law;

6. *Commends* the role played by regional and international organizations as well as neighbouring countries in providing protection and assistance to all people affected by the crisis in the Kasais;

7. *Calls upon* the Government of the Democratic Republic of the Congo to increase its cooperation with the Office of the United Nations High Commissioner for Human Rights, the United Nations Joint Office for Human Rights in the Democratic Republic of the Congo, the Human Rights Council and its special procedures, and underlines the necessity for the United Nations Joint Office for Human Rights to have unfettered and timely access to the whole territory, in particular to the Kasais, to operate without hindrance and to have access to all relevant persons and documents;

8. *Welcomes* the commitment of the Government of the Democratic Republic of the Congo to continue its efforts through joint investigations on human rights violations and abuses and violations of international humanitarian law perpetrated in the Kasais with the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo and the United Nations Joint Office for Human Rights, in association with the African Union, as announced by the Minister for Human Rights during the interactive dialogue on the Democratic Republic of the Congo of 22 March 2017;

9. *Takes note* of the initial results of the national investigation into the allegations of human rights violations and abuses committed in the Kasais, and regrets the insufficient cooperation of the Government of the Democratic Republic of the Congo with the Mission and the United Nations Joint Human Rights Office in that regard;

10. *Requests* the High Commissioner to establish, as a matter of urgency and for a period of one year, an international independent mission with all the necessary expertise with a mandate:

(*a*) To conduct in-depth investigations, to determine and to report the facts, circumstances and individual responsibilities concerning alleged human rights violations and abuses, and violations of international humanitarian law in the Kasai region, including with regard to the mass graves;

(*b*) To formulate recommendations on steps to be taken with a view to providing that those responsible for any violations and abuses, regardless of their affiliation, are held accountable for their acts;

(*c*) To cooperate and dialogue with the authorities of the Democratic Republic of the Congo and all other stakeholders, in particular United Nations organizations, civil society, refugees, the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, the United Nations Joint Human Rights Office, the African Union, the Southern African Development Community and the African Commission for Human and Peoples' Rights, in order to provide support and advice necessary for the immediate improvement of the human rights situation and for the fight against impunity;

11. *Requests* the international independent mission to provide oral updates on progress in the investigations at an enhanced interactive dialogue to the Human Rights Council at its thirty-sixth session and at an interactive dialogue at its thirty-seventh session, and to present a comprehensive report at an interactive dialogue at its thirty-eighth session;

12. *Requests* that the report of the international independent mission be shared with the African Union and all relevant organs of the United Nations;

13. *Urges* the Government of the Democratic Republic of the Congo and the neighbouring countries hosting refugees to fully cooperate with the international independent mission and with the Office of the High Commissioner in the implementation of the present resolution, by facilitating visits and unfettered and timely access to the country, sites and persons and by providing all relevant information;

14. *Requests* that the Office of the High Commissioner receive all necessary and appropriate resources for the conduct of this mandate;

15. *Reiterates its invitation* to the High Commissioner to keep the Human Rights Council informed of the situation in the Democratic Republic of the Congo;

16. *Decides* to remain seized of the situation.